IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7854 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T CORPN

Versus

DINESHKUMAR J BHATT C/O VASANT J PAMNANI

Appearance:

MR HS MUNSHAW for Petitioner

RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 29/08/2000

ORAL JUDGEMENT

#. This petition challenges the order of the Labour Court, Amreli, whereby the action of the petitioner in orally discharging the respondent is held to be illegal and the petitioner is ordered to be reinstated with full backwages.

#. The Learned Counsel for the petitioner has submitted that the respondent was appointed on a particular project and he had no right to be regularised or reinstated as his employment was of purely casualnature. On going through the impugned award it appears that immediately before the termination, the respondent had completed more than 240 days of continuous service and he was orally discharged without complying with the mandatory provisions of the Industrial Disputes Act. These findings of fact are not seriously controverted and the petitioner has relied upon some abstract submission to the effect that the petitioner is engaged in public service and therefore not an industry and in any case the respondent would not be entitled to reinstatement when his services were not supposed to be regularised. As far as the application of the provisions of the Industrial Disputes Act and their violation is concerned, the aforesaid submissions are not relevant and applicable. It is in no way shown as to how the contract of employment of the respondent was covered by the provisions of Sec.2(oo)(bb) of the I.D.Act.

#. The Learned Counsel appearing for the respondent has fairly conceded that in view of long pendency of the reference before the Labour Court the award as regards backwages may be modified to the extent that the respondent may be awarded 75% of the backwages.

#. In the facts and for the reasons discussed above, no case is made out to interfere with the impugned order. However, on concession on behalf of the respondent the impugned award is modified to the extent that the respondent shall be entitled to 75% of the backwages. The rest of the award is upheld. The petition stands allowed to the aforesaid extent. Rule is made absolute. This order shall be implemented within 1 month from today. Interim relief stands vacated. No order as to costs.

kks